

Senate File 375 - Introduced

SENATE FILE 375
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SF 72)

A BILL FOR

1 An Act providing for the establishment of the Iowa health
2 benefit marketplace and including effective date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

IOWA HEALTH BENEFIT MARKETPLACE ACT

Section 1. NEW SECTION. 514M.1 Title.

This chapter shall be known and may be cited as the "*Iowa Health Benefit Marketplace Act*".

Sec. 2. NEW SECTION. 514M.2 Purpose and intent.

The purpose of this chapter is to provide for the establishment of a health benefit marketplace in this state to facilitate the sale and purchase of qualified health benefit plans by qualified individuals in the individual market in this state and by qualified small employers in the small group market in this state. The intent of authorizing the establishment of a health benefit marketplace in this state is to reduce the number of uninsured individuals in this state, provide a transparent marketplace and consumer education, and assist individuals with access to relevant federal and state programs, premium assistance tax credits, and cost-sharing reductions.

Sec. 3. NEW SECTION. 514M.3 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "*Board*" means the board of directors of the Iowa health benefit marketplace as provided in section 514M.5.

2. "*Commissioner*" means the commissioner of insurance.

3. "*Executive director*" means the executive director of the Iowa health benefit marketplace.

4. "*Federal Act*" means the federal Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, and any amendments thereto, or regulations or guidance issued under, those Acts.

5. a. "*Health benefit plan*" means a policy, contract, certificate, or agreement offered or issued by a health carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services.

1 *b. "Health benefit plan"* does not include any of the
2 following:

- 3 (1) Coverage only for accident, or disability income
4 insurance, or any combination thereof.
- 5 (2) Coverage issued as a supplement to liability insurance.
- 6 (3) Liability insurance, including general liability
7 insurance and automobile liability insurance.
- 8 (4) Workers' compensation or similar insurance.
- 9 (5) Automobile medical payment insurance.
- 10 (6) Credit-only insurance.
- 11 (7) Coverage for on-site medical clinics.
- 12 (8) Other similar insurance coverage, specified in federal
13 regulations issued pursuant to Tit. XXVII of the federal Public
14 Health Service Act, as enacted by the federal Health Insurance
15 Portability and Accountability Act of 1996, Pub. L. No.
16 104-191, and amended by the federal Act, under which benefits
17 for health care services are secondary or incidental to other
18 insurance benefits.

19 *c. "Health benefit plan"* does not include any of the
20 following benefits if they are provided under a separate
21 policy, certificate, or contract of insurance or are otherwise
22 not an integral part of the plan:

- 23 (1) Limited scope dental or vision benefits.
- 24 (2) Benefits for long-term care, nursing home care, home
25 health care, community-based care, or any combination thereof.
- 26 (3) Other similar, limited benefits specified in federal
27 regulations issued pursuant to the federal Health Insurance
28 Portability and Accountability Act of 1996, Pub. L. No.
29 104-191.

30 *d. "Health benefit plan"* does not include any of the
31 following benefits if the benefits are provided under a
32 separate policy, certificate, or contract of insurance, there
33 is no coordination between the provision of the benefits and
34 any exclusion of benefits under any group health benefit plan
35 maintained by the same plan sponsor, and the benefits are paid

1 with respect to an event without regard to whether benefits are
2 provided with respect to such an event under any group health
3 benefit plan maintained by the same plan sponsor:

4 (1) Coverage only for a specified disease or illness.

5 (2) Hospital indemnity or other fixed indemnity insurance.

6 *e. "Health benefit plan"* does not include any of the
7 following if offered as a separate policy, certificate, or
8 contract of insurance:

9 (1) Medicare supplemental health insurance as defined under
10 section 1882(g)(1) of the federal Social Security Act.

11 (2) Coverage supplemental to the coverage provided under 10
12 U.S.C. ch. 55, by the civilian health and medical program of
13 the uniformed services.

14 (3) Supplemental coverage similar to that provided under a
15 group health benefit plan.

16 6. *"Health carrier"* means an entity subject to the insurance
17 laws and rules of this state, or subject to the jurisdiction
18 of the commissioner, that contracts or offers to contract to
19 provide, deliver, arrange for, pay for, or reimburse any of
20 the costs of health care services, including an insurance
21 company offering sickness and accident plans, a health
22 maintenance organization, a nonprofit hospital or health
23 service corporation, or any other entity providing a plan of
24 health insurance, health benefits, or health services.

25 7. *"Insurance producer"* means a person required to be
26 licensed under chapter 522B.

27 8. *"Marketplace"* means the Iowa health benefit marketplace
28 established pursuant to section 514M.4.

29 9. *"Navigator"* means a person selected, licensed, and
30 regulated by the marketplace in accordance with section 1311(i)
31 of the federal Act, standards developed by the secretary, and
32 chapter 522D.

33 10. *"Qualified dental plan"* means a limited scope dental
34 plan that has been certified in accordance with section
35 514M.10.

1 11. *"Qualified employer"* means a small employer that
2 elects to make its full-time employees eligible for one or
3 more qualified health benefit plans offered through the small
4 business health options program of the marketplace, and at
5 the option of the employer, make some or all of its part-time
6 employees so eligible, provided that the employer does either
7 of the following:

8 *a.* Has its principal place of business in this state and
9 elects to provide coverage through the marketplace to all of
10 its eligible employees wherever employed.

11 *b.* Elects to provide coverage through the marketplace to all
12 of its eligible employees who are principally employed in this
13 state.

14 12. *"Qualified health benefit plan"* means a health benefit
15 plan that has in effect a certification as described in section
16 1311(c) of the federal Act and section 514M.10.

17 13. *"Qualified individual"* means an individual, including a
18 minor, who is all of the following:

19 *a.* Is seeking to enroll in a qualified health benefit plan
20 offered to individuals through the marketplace.

21 *b.* Is a resident of this state.

22 *c.* At the time of enrollment, is not incarcerated, other
23 than incarceration pending the disposition of charges.

24 *d.* Is, and is reasonably expected to be, for the entire
25 period for which enrollment is sought, a citizen or national of
26 the United States or an alien lawfully present in the United
27 States.

28 14. *"Secretary"* means the secretary of the United States
29 department of health and human services.

30 15. *"Secretary of the board"* means the secretary of the
31 board of directors of the Iowa health benefit marketplace.

32 16. *"Small business health options program"* means the small
33 business health options program component of the marketplace
34 established under section 514M.8.

35 17. *a.* *"Small employer"* means an employer that employed

1 an average of at least one and not more than fifty employees
2 during the preceding calendar year.

3 *b.* For the purposes of this subsection:

4 (1) All persons treated as a single employer under
5 subsection (b), (c), (m), or (o) of section 414 of the Internal
6 Revenue Code of 1986 shall be treated as a single employer.

7 (2) An employer and any predecessor employer shall be
8 treated as a single employer.

9 (3) All employees shall be counted, including part-time
10 employees and employees who are not eligible for coverage
11 through the employer.

12 (4) If an employer was not in existence throughout the
13 preceding calendar year, the determination of whether that
14 employer is a small employer shall be based on the average
15 number of employees that the employer is reasonably expected to
16 employ on business days in the current calendar year.

17 (5) An employer that makes enrollment in qualified health
18 benefit plans available to its employees through the small
19 business health options program component of the marketplace,
20 and would cease to be a small employer by reason of an increase
21 in the number of its employees, shall continue to be treated
22 as a small employer for purposes of this chapter as long as
23 the employer continuously makes enrollment through the small
24 business health options program component of the marketplace
25 available to its employees.

26 Sec. 4. NEW SECTION. 514M.4 Establishment of Iowa health
27 benefit marketplace.

28 1. The Iowa health benefit marketplace is established as a
29 nonprofit corporation. The marketplace shall be established
30 for the purpose of facilitating the sale and purchase of
31 qualified health benefit plans by qualified individuals in
32 the individual market in this state and by qualified small
33 employers in the small group market in this state.

34 2. The powers and duties of the marketplace are vested in
35 and shall be exercised by a board of directors established

1 under section 514M.5.

2 3. The marketplace shall operate under a plan of operation
3 established and approved by the board of directors, in
4 consultation with the commissioner. The plan shall effectuate
5 the purposes of this chapter and assure the fair, reasonable,
6 and equitable administration of the marketplace. The board
7 shall do all of the following pursuant to the plan, including
8 but not limited to:

9 a. Plan, direct, coordinate, and execute the administrative
10 functions of the marketplace.

11 b. Employ professional and clerical staff as necessary.

12 c. Keep an accurate account of all activities, receipts,
13 and expenditures of the marketplace and annually submit a
14 report to the commissioner, governor, general assembly, and
15 the auditor of state concerning such accountings pursuant to
16 section 514M.14.

17 4. The marketplace shall be operated on a statewide basis.

18 5. The marketplace shall include separate marketplace
19 components which facilitate the sale and purchase of qualified
20 health benefit plans to eligible individuals and to small
21 employers as described in this chapter and in the federal Act.

22 6. The marketplace may establish a reimbursement system
23 for health benefit plans issued in this state that all health
24 carriers and health care providers may join to facilitate fair
25 and reasonable payments for the cost of health care services
26 provided pursuant to a health benefit plan.

27 7. The marketplace shall do all of the following:

28 a. Facilitate the purchase and sale of qualified health
29 benefit plans to qualified individuals and qualified employers
30 as described in this chapter and in the federal Act.

31 b. Establish rate schedules for commissions paid to
32 insurance producers by qualified health benefit plans offered
33 through the marketplace.

34 c. Meet the requirements of this chapter and any rules
35 adopted pursuant to this chapter.

1 8. *a.* A person who selects, purchases, or enrolls in a
2 qualified health benefit plan offered through the marketplace
3 shall be enrolled in the plan by an insurance producer or may
4 enroll in the plan directly through the marketplace internet
5 site. The commission paid to an insurance producer who enrolls
6 a person in a plan offered through the marketplace shall be
7 established by the marketplace.

8 *b.* On the anniversary date of coverage obtained through
9 the marketplace, an enrollee may renew or enroll in coverage
10 offered through the marketplace through any insurance producer
11 of the enrollee's choice or may enroll directly through the
12 marketplace internet site. A commission shall be paid to an
13 insurance producer who renews or enrolls a person in coverage
14 under this paragraph in the same manner as is provided in
15 paragraph "a".

16 9. The marketplace may employ staff to carry out the
17 functions of the marketplace, but no employee of the
18 marketplace shall sell, solicit, or negotiate enrollment in
19 a health benefit plan or otherwise offer services for which
20 a license as an insurance producer is required pursuant to
21 chapter 522B.

22 10. The marketplace may contract with an eligible entity to
23 fulfill any of its specialized duties or responsibilities as
24 described in this chapter. An eligible entity includes but is
25 not limited to an entity that has experience in individual and
26 small group health benefit plans, benefit administration, or
27 other experience relevant to the responsibilities to be assumed
28 by the entity. However, a health carrier or an affiliate of a
29 health carrier is not an eligible entity for the purposes of
30 this subsection.

31 11. The marketplace may enter into information-sharing
32 agreements with federal and state agencies to carry out
33 its responsibilities under this chapter provided such
34 agreements include adequate protections with respect to the
35 confidentiality of the information to be shared and comply with

1 all state laws and rules and federal laws and regulations.

2 12. Each qualified health benefit plan offered through
3 the marketplace shall be assigned a rating by the marketplace
4 in accordance with criteria developed by the secretary under
5 section 1311(c)(3) of the federal Act, and the marketplace
6 shall determine the level of coverage of each qualified health
7 benefit plan in accordance with regulations issued by the
8 secretary under section 1302(d)(2)(A) of the federal Act and
9 applicable state law.

10 13. If a qualified health benefit plan offered through
11 the marketplace meets or exceeds the criteria for a qualified
12 health benefit plan set forth by the secretary, the plan shall
13 be reviewed and assigned a rating by the marketplace.

14 Sec. 5. NEW SECTION. 514M.5 Board of directors — executive
15 director — secretary.

16 1. The board of directors of the Iowa health benefit
17 marketplace shall effectuate the powers and duties of the
18 marketplace as set forth in this chapter.

19 2. The board shall consist of seven voting members and
20 five ex officio, nonvoting members. The voting members shall
21 be appointed by the governor, subject to confirmation by the
22 senate. The voting members of the board shall annually elect
23 one voting member as chairperson and one voting member as vice
24 chairperson.

25 a. The voting members shall be appointed by the governor as
26 follows:

27 (1) Two persons who represent the interests of small
28 business from nominations made to the governor by nationally
29 recognized groups that represent the interests of small
30 business.

31 (2) Three persons who represent the interests of consumers
32 from nominations made to the governor by nationally recognized
33 groups that represent the interests of consumers.

34 (3) One person who is an insurance producer licensed under
35 chapter 522B.

1 (4) One person who is a health care provider.

2 *b.* The ex officio, nonvoting members of the board are as
3 follows:

4 (1) Four members of the general assembly, one appointed
5 by the speaker of the house of representatives, one appointed
6 by the minority leader of the house of representatives,
7 one appointed by the majority leader of the senate, and one
8 appointed by the minority leader of the senate.

9 (2) A person who shall serve as the secretary of the board,
10 appointed by the board.

11 3. The governor shall not appoint to the board any person
12 who is either the spouse or a relative within the first degree
13 of consanguinity of a serving member of the board.

14 4. Each member of the board appointed by the governor shall
15 be a resident of this state and the composition of voting
16 members of the board shall be in compliance with sections
17 69.16, 69.16A, and 69.16C.

18 5. The voting members of the board shall be appointed for
19 staggered terms of three years on or before March 1, 2014, and
20 by December 15 of each year thereafter. The initial terms
21 of the voting members of the board shall be staggered at the
22 discretion of the governor. A voting member of the board is
23 eligible for reappointment. The governor shall fill a vacancy
24 on the board in the same manner as the original appointment
25 for the remainder of the term. A voting member of the board
26 may be removed by the governor for misfeasance, malfeasance,
27 willful neglect of duty, failure to actively participate in the
28 affairs of the board, or other cause after notice and a public
29 hearing unless the notice and hearing are waived by the member
30 in writing.

31 6. A voting member of the board shall not be an employee
32 of, a consultant to, a member of the board of directors of,
33 affiliated with, have an ownership interest in, or otherwise
34 be a representative of any health carrier, insurance producer
35 agency, insurance consultant organization, trade association of

1 insurers, or association offering health benefit plans to its
2 members, while serving on the board.

3 7. Voting members of the board shall be reimbursed from the
4 moneys of the marketplace for all actual and necessary expenses
5 incurred in the performance of their duties as members, and
6 shall receive per diem at the rate of fifty dollars per day for
7 their services.

8 8. A majority of the voting members of the board constitutes
9 a quorum. The affirmative vote of a majority of the voting
10 members is necessary for any action taken by the board. The
11 majority shall not include a member who has a conflict of
12 interest and a statement by a member of a conflict of interest
13 is conclusive for this purpose. A vacancy in the membership of
14 the board does not impair the right of a quorum to exercise the
15 rights and perform the duties of the board. An action taken by
16 the board under this chapter may be authorized by resolution
17 at a regular or special meeting and each resolution shall take
18 effect immediately and need not be published or posted.

19 9. The voting members of the board shall give bond as
20 required for public officers by chapter 64.

21 10. The voting members of the board are subject to and are
22 officials within the meaning of chapter 68B.

23 11. The board shall meet at the call of the chairperson,
24 or in the absence of the chairperson, at the call of the vice
25 chairperson, or when any four voting members of the board file
26 a written request with the chairperson for a meeting. Written
27 notice of the time and place of each meeting shall be given to
28 each member of the board.

29 12. *a.* The voting members of the board shall appoint an
30 executive director, subject to confirmation by the senate, to
31 supervise the administrative affairs and general management and
32 operations of the marketplace.

33 *b.* The voting members of the board may appoint other
34 officers as the members of the board determine. The officers
35 shall not be members of the board, with the exception of the

1 secretary of the board, and shall serve at the pleasure of the
2 voting members of the board, and shall receive compensation as
3 fixed by the board.

4 *c.* The board may employ other staff to carry out the
5 functions of the marketplace, but no employee of the
6 marketplace shall sell, solicit, or negotiate enrollment in
7 a health benefit plan or otherwise offer services for which
8 a license as an insurance producer is required pursuant to
9 chapter 522B. All employees of the marketplace are exempt from
10 chapter 8A, subchapter IV, and chapter 97B.

11 13. *a.* The voting members of the board shall appoint a
12 secretary of the board who shall be an ex officio member of the
13 board as provided in subsection 2, shall keep a record of the
14 proceedings of the board, and shall be the custodian of all
15 books, documents, and papers filed with the board, including
16 information filed in an electronic format, and the minute book
17 or journal of the board.

18 *b.* The secretary of the board shall serve at the pleasure
19 of the board, and shall receive compensation as fixed by the
20 board.

21 14. Members of the board, or persons acting on behalf of
22 the marketplace, while acting in the scope of their agency or
23 employment, are not subject to personal liability resulting
24 from carrying out the powers and duties in this chapter.

25 Sec. 6. NEW SECTION. 514M.6 **General powers.**

26 1. The marketplace has any and all powers necessary and
27 convenient to carry out its purposes and duties and exercise
28 its specific powers, including but not limited to the power to:

29 *a.* Sue and be sued in its own name.

30 *b.* Have and alter a corporate seal.

31 *c.* Make and alter bylaws for its management consistent with
32 the provisions of this chapter.

33 *d.* Make and execute agreements, contracts, and other
34 instruments of any and all types on such terms and conditions
35 as the marketplace may find necessary or convenient to the

1 purpose of the marketplace, with any public or private entity,
2 including but not limited to contracts for goods and services.
3 All political subdivisions, other public agencies, and state
4 departments and agencies may enter into contracts and otherwise
5 cooperate with the marketplace.

6 *e.* Adopt procedures relating to competitive bidding,
7 including the identification of those circumstances under which
8 competitive bidding by the marketplace, either formally or
9 informally, shall be required. In any bidding process, the
10 marketplace may administer its own bidding and procurement or
11 may utilize the services of the department of administrative
12 services or any other agency. Except when such rules apply,
13 the marketplace and all contracts made by it in carrying out
14 its public and essential governmental functions with respect
15 to any of its purposes shall be exempt from the provisions
16 and requirements of all laws or rules of the state which
17 require competitive bids in connection with the letting of such
18 contracts.

19 *f.* Acquire, hold, improve, mortgage, lease, and dispose of
20 real and personal property, including but not limited to the
21 power to sell at public or private sale, with or without public
22 bidding, any such property, or other obligation held by it.

23 *g.* Procure insurance against any loss in connection with its
24 operations and property interests.

25 *h.* Accept appropriations, gifts, grants, loans, or other
26 aid from public or private entities. A record of all gifts or
27 grants, stating the type, amount, and donor, shall be clearly
28 set out in the marketplace's annual report along with the
29 record of other receipts.

30 *i.* Provide to public and private entities technical
31 assistance and counseling related to the marketplace's
32 purposes.

33 *j.* In cooperation with other local, state, or federal
34 governmental agencies, conduct research studies, develop
35 estimates of unmet health insurance needs, gather and compile

1 data useful to facilitating decision making, and enter into
2 agreements to carry out programs within or without the state
3 which the marketplace finds to be consistent with the goals of
4 the marketplace.

5 *k.* Enter into agreements with the federal government,
6 tribes, and other states to facilitate the sale or purchase of
7 qualified health benefit plans by qualified individuals and
8 qualified small employers in this state.

9 *l.* Own or acquire intellectual property rights including
10 but not limited to copyrights, trademarks, service marks, and
11 patents, and enforce the rights of the marketplace with respect
12 to such intellectual property rights.

13 *m.* Form committees or panels as necessary to facilitate the
14 marketplace's duties. Committees or panels formed pursuant to
15 this paragraph shall be subject to the provisions of chapters
16 21 and 22.

17 *n.* Establish one or more funds within the state treasury
18 under the control of the marketplace. Notwithstanding section
19 8.33 or 12C.7, or any other provision to the contrary, moneys
20 invested by the treasurer of state pursuant to this paragraph
21 shall not revert to the general fund of the state and interest
22 accrued on the moneys shall be moneys of the marketplace and
23 shall not be credited to the general fund of the state. The
24 nonreversion of moneys allowed under this paragraph does not
25 apply to moneys appropriated to the marketplace by the general
26 assembly.

27 *o.* Exercise generally all powers typically exercised by
28 private enterprises engaged in business pursuits unless the
29 exercise of such a power would violate the terms of this
30 chapter or the Constitution of the State of Iowa.

31 2. Notwithstanding any other provision of law, any purchase
32 or lease of real property, other than on a temporary basis,
33 when necessary in order to implement the purposes of the
34 marketplace or protect the investments of the marketplace,
35 shall require written notice from the marketplace to the

1 government oversight committees of the general assembly or
2 their successor committees and the prior approval of the
3 executive council.

4 3. The powers enumerated in this section are cumulative of
5 and in addition to those powers enumerated elsewhere in this
6 chapter and such powers do not limit or restrict any other
7 powers of the marketplace.

8 Sec. 7. NEW SECTION. 514M.7 **Specific powers.**

9 1. In addition to the general powers described in section
10 514M.6, the marketplace shall have all powers convenient and
11 necessary to carry out the purpose and intent of this chapter.

12 2. The marketplace established pursuant to section 514M.4
13 shall make qualified health benefit plans that are effective
14 on January 1, 2015, available to qualified individuals and
15 qualified employers in this state.

16 3. At such time as applications for waivers from the
17 requirements of the federal Act are accepted by the secretary,
18 the marketplace may request such waivers from the secretary.

19 4. The marketplace shall allow a health carrier to offer a
20 plan that provides limited scope dental benefits meeting the
21 requirements of section 9832(c)(2)(A) of the Internal Revenue
22 Code of 1986 through the marketplace, either separately or in
23 conjunction with a qualified health benefit plan, if the plan
24 provides pediatric dental benefits meeting the requirements of
25 section 1302(b)(1)(J) of the federal Act.

26 5. The marketplace or a health carrier offering qualified
27 health benefit plans through the marketplace shall not charge
28 an individual a fee or penalty for termination of coverage if
29 the individual enrolls in another type of minimum essential
30 coverage because the individual has become newly eligible for
31 that coverage or because the individual's employer-sponsored
32 coverage has become affordable using the standards of the
33 federal Act, as codified at section 36B(c)(2)(C) of the
34 Internal Revenue Code of 1986.

35 Sec. 8. NEW SECTION. 514M.8 **Duties of the marketplace.**

1 The marketplace shall do all of the following:

2 1. Implement procedures for the certification,
3 recertification, and decertification of health benefit plans
4 as qualified health benefit plans, consistent with guidelines
5 developed by the secretary under section 1311(c) of the federal
6 Act and applicable state law.

7 2. Provide for the operation of a toll-free telephone
8 hotline to respond to requests for assistance.

9 3. Provide for enrollment periods, as determined by the
10 secretary under section 1311(c)(6) of the federal Act and
11 applicable state law.

12 4. Utilize a standardized format for presenting health
13 benefit plan options in the marketplace, including the use of
14 the uniform outline of coverage established under section 2715
15 of the Public Health Service Act and applicable state law.

16 5. In accordance with section 1413 of the federal Act
17 and applicable state law, inform individuals of eligibility
18 requirements for the Medicaid program under Tit. XIX of the
19 federal Social Security Act, the children's health insurance
20 program under Tit. XXI of the federal Social Security Act, or
21 any applicable state or local public program and, if through
22 screening of an application by the marketplace, the marketplace
23 determines that any individual is eligible for any such
24 program, enroll that individual in that program.

25 6. Establish and make available by electronic means a
26 calculator to determine the actual cost of coverage after
27 application of any premium tax credit for which an individual
28 is eligible using the standards of the federal Act as codified
29 at section 36B(c)(2)(C) of the Internal Revenue Code of 1986
30 and any cost-sharing reductions under section 1402 of the
31 federal Act.

32 7. Establish a small business health options program
33 component of the marketplace through which individuals employed
34 by a qualified employer may enroll in any qualified health
35 benefit plan offered through the small business health options

1 program at the level of coverage specified by the employer.
2 In establishing a small business health options program
3 marketplace component, the marketplace shall do all of the
4 following:

5 *a.* Provide consolidated billing and premium payment by
6 qualified employers including detailed information to those
7 employers about health benefit plans chosen by their employees
8 and the cost of those plans.

9 *b.* Establish an electronic interface and facilitate the flow
10 of funds between health carriers, employers, and employees,
11 including subsidiaries.

12 *c.* Provide for the dissemination of health benefit plan
13 enrollment information to employers.

14 8. Establish an individual health options marketplace
15 component through which individuals may enroll in any qualified
16 health benefit plan for individuals.

17 9. Select entities qualified and licensed to serve as
18 navigators in accordance with section 1311(i) of the federal
19 Act, standards developed by the secretary, section 514M.9, and
20 chapter 522D, and award grants to facilitate the function of
21 navigators as provided in section 514M.9.

22 10. Encourage and review the development of cafeteria plans
23 pursuant to section 125 of the Internal Revenue Code of 1986,
24 for use by employers participating in the marketplace.

25 11. Maintain an internet site through which enrollees,
26 employers, and prospective enrollees of qualified health
27 benefit plans, at a minimum, may obtain standardized
28 comparative information on qualified health benefit plans
29 and health benefit plans that are not offered through the
30 marketplace. In developing the electronic clearinghouse,
31 the marketplace may require health carriers participating in
32 the marketplace to make available and regularly update an
33 electronic directory of contracting health care providers so
34 individuals seeking coverage through the marketplace can search
35 by health care provider name to determine which qualified

1 health benefit plans in the marketplace include that health
2 care provider in their network, and whether that health care
3 provider is accepting new patients for that particular health
4 benefit plan.

5 12. Consult with stakeholders who are relevant to carrying
6 out the activities required under this chapter.

7 13. Assist in the implementation of reinsurance and risk
8 adjustment mechanisms, as required by state and federal law.

9 14. Establish guidelines for determining qualifications for
10 marketplace employees and entities or persons who are licensed
11 and selected as navigators.

12 15. Subject to section 1411 of the federal Act and
13 applicable state law, grant a certification attesting that, for
14 purposes of the individual responsibility penalty under the
15 standards of the federal Act, as codified at section 5000A of
16 the Internal Revenue Code of 1986, an individual is exempt from
17 the individual responsibility requirement or from the penalty
18 imposed by that section because of any of the following:

19 a. There is no affordable qualified health benefit plan
20 available through the marketplace, or the individual's
21 employer, covering the individual.

22 b. The individual meets the requirements for any other such
23 exemption from the individual responsibility requirement or
24 penalty.

25 16. Transfer to the United States secretary of the treasury
26 all of the following:

27 a. A list of the individuals who are issued a certification
28 under subsection 15, paragraph "a", including the name and
29 taxpayer identification number of each individual.

30 b. The name and taxpayer identification number of each
31 individual who was an employee of an employer but who was
32 determined to be eligible for the premium tax credit using
33 the standards of the federal Act as codified at section
34 36B(c)(2)(C) of the Internal Revenue Code of 1986, because of
35 either of the following:

1 (1) The employer did not provide minimum essential health
2 benefits coverage.

3 (2) The employer provided minimum essential health benefits
4 coverage, but it was determined using the standards of the
5 federal Act, as codified at section 36B(c)(2)(C) of the
6 Internal Revenue Code of 1986, to either be unaffordable to
7 the employee or not to provide the required minimum actuarial
8 value.

9 c. The name and taxpayer identification number of all of the
10 following:

11 (1) Each individual who notifies the marketplace under
12 section 1411(b)(4) of the federal Act that the individual has
13 changed employers.

14 (2) Each individual who ceases coverage under a qualified
15 health benefit plan during a plan year and the effective date
16 of that cessation.

17 17. Provide to each employer the name of each employee of
18 the employer described in subsection 16, paragraph "b", who
19 ceases coverage under a qualified health benefit plan during a
20 plan year and the effective date of the cessation.

21 18. Perform duties required of, or delegated to, the
22 marketplace by the secretary, the United States secretary
23 of the treasury, or the commissioner related to determining
24 eligibility for premium tax credits, reduced cost-sharing, or
25 individual responsibility requirement exemptions.

26 19. In consultation with the commissioner, review the
27 rate of premium growth of health benefit plans within the
28 marketplace and outside the marketplace, and consider the
29 information obtained in developing recommendations on whether
30 to continue limiting qualified employer status to small
31 employers.

32 Sec. 9. NEW SECTION. 514M.9 Navigators.

33 1. The marketplace may select entities qualified and
34 licensed to serve as navigators in accordance with section
35 1311(i) of the federal Act, standards developed by the

1 secretary, and applicable state law including chapter 522D, and
2 award grants to enable navigators to do all of the following:

3 *a.* Conduct public education activities to raise awareness of
4 the availability of qualified health benefit plans through the
5 marketplace.

6 *b.* Distribute fair and impartial information concerning
7 enrollment in qualified health benefit plans, and the
8 availability of premium tax credits for which an individual
9 may be eligible using the standards of the federal Act, as
10 codified at section 36B(c)(2)(C) of the Internal Revenue Code
11 of 1986, and any cost-sharing reductions under section 1402 of
12 the federal Act.

13 *c.* Facilitate enrollment in qualified health benefit plans
14 offered through the marketplace or in health benefit plans
15 offered outside the marketplace by referring consumers to
16 insurance producers and to the marketplace internet site for
17 enrollment.

18 *d.* Provide referrals to the office of health insurance
19 consumer assistance established under the federal Act pursuant
20 to section 2793 of the federal Public Health Service Act
21 and the office of the commissioner or any other appropriate
22 state agency, for any enrollee with a grievance, complaint,
23 or question regarding the enrollee's health benefit plan or
24 coverage, or a determination under that plan or coverage.

25 *e.* Provide information in a manner that is culturally and
26 linguistically appropriate to the needs of the population being
27 served by the marketplace.

28 2. An entity selected and licensed as a navigator shall not
29 engage in any activities that require licensure as an insurance
30 producer under chapter 522B unless the entity is also licensed
31 as an insurance producer.

32 Sec. 10. NEW SECTION. 514M.10 Health benefit plan
33 certification.

34 1. The marketplace may certify a health benefit plan as
35 a qualified health benefit plan if the plan meets all of the

1 following criteria:

2 *a.* The plan provides the essential health benefit package
3 described in section 1302(a) of the federal Act, except that
4 the plan is not required to provide essential benefits that
5 duplicate the minimum benefits of qualified dental plans as
6 provided in subsection 6 if all of the following occur:

7 (1) The marketplace determines that at least one qualified
8 dental plan is available to supplement the plan's coverage.

9 (2) The health carrier makes a prominent disclosure at the
10 time it offers the plan, in a form approved by the marketplace,
11 that the plan does not provide the full range of essential
12 pediatric benefits and that qualified dental plans providing
13 those benefits and other dental benefits not covered by the
14 plan are offered through the marketplace.

15 *b.* The premium rates and contract language have been
16 approved by the commissioner.

17 *c.* The plan provides at least a bronze level of coverage,
18 as that level is defined by the federal Act, unless the plan
19 is certified as a qualified catastrophic plan, meets the
20 requirements of the federal Act for catastrophic plans, and
21 will only be offered to individuals eligible for catastrophic
22 coverage.

23 *d.* The plan's cost-sharing requirements do not exceed the
24 limits established under section 1302(c)(1) of the federal Act,
25 and if the plan is offered through the small business health
26 options program component of the marketplace that offers plans
27 to small employers, the plan's deductible does not exceed the
28 limits established under section 1302(c)(2) of the federal Act.

29 *e.* The plan offers wellness programs.

30 *f.* The health carrier offering the plan provides greater
31 transparency and disclosure of information about the plan
32 benefits, provider networks, claim payment practices, and
33 solvency ratings, and establishes a process for consumers to
34 compare features of health benefit plans offered through the
35 marketplace.

1 *g.* The health carrier offering the plan meets all of the
2 following criteria:

3 (1) Is licensed and in good standing to offer health
4 insurance coverage in this state.

5 (2) Offers at least one qualified health benefit plan in the
6 silver level and at least one qualified health benefit plan in
7 the gold level, as those levels are defined in the federal Act,
8 through each component of the marketplace in which the health
9 carrier participates, where component refers to the components
10 of the marketplace which offer individual coverage and coverage
11 for small employers.

12 (3) Charges the same premium rate for each qualified health
13 benefit plan without regard to whether the plan is offered
14 through the marketplace.

15 (4) Does not charge any termination of coverage fees or
16 penalties in violation of section 514M.7.

17 (5) Complies with the regulations developed by the
18 secretary under section 1311(d) of the federal Act, applicable
19 state laws, and such other requirements as the marketplace may
20 establish.

21 *h.* The plan meets the requirements of certification as
22 adopted by rule pursuant to this section and by the secretary
23 under section 1311(c) of the federal Act, which include but
24 are not limited to minimum standards in the areas of marketing
25 practices, network adequacy, essential community providers in
26 underserved areas, accreditation, quality improvement, uniform
27 enrollment forms and descriptions of coverage, and information
28 on quality measures for plan performance.

29 *i.* The marketplace determines that making the plan available
30 through the marketplace is in the interest of qualified
31 individuals and qualified employers in this state.

32 2. The marketplace shall not exclude a health benefit plan
33 from certification for any of the following reasons:

34 *a.* On the basis that the plan is a fee-for-service plan.

35 *b.* Through the imposition of premium price controls.

1 *c.* On the basis that the plan provides treatments necessary
2 to prevent patients' deaths in circumstances the marketplace
3 determines are inappropriate or too costly.

4 3. The marketplace shall require each health carrier
5 seeking certification of a health benefit plan as a qualified
6 health benefit plan to do all of the following:

7 *a.* Provide notice of any proposed premium increase and
8 a justification for the increase to the marketplace and to
9 affected policyholders before implementation of that increase.
10 The health carrier shall prominently post the information
11 on its internet site. The marketplace shall take this
12 information, along with the information and the recommendations
13 provided to the marketplace by the commissioner under the
14 federal Act pursuant to section 2794(b) of the federal Public
15 Health Service Act and applicable state law, into consideration
16 when determining whether to allow the health carrier to make
17 plans available through the marketplace.

18 *b.* Make available to the public, in the format described in
19 paragraph "*c*", and submit to the marketplace, the secretary, and
20 the commissioner, accurate and timely disclosure of all of the
21 following:

- 22 (1) Claims payment policies and practices.
- 23 (2) Periodic financial disclosures.
- 24 (3) Data on enrollment.
- 25 (4) Data on disenrollment.
- 26 (5) Data on the number of claims that are denied.
- 27 (6) Data on rating practices.
- 28 (7) Information on cost-sharing and payments with respect
29 to any out-of-network coverage.
- 30 (8) Information on enrollee and participant rights under
31 Tit. I of the federal Act and applicable state law.
- 32 (9) Other information as determined appropriate by the
33 secretary, the marketplace, or the commissioner.

34 *c.* The information required in paragraph "*b*" shall be
35 provided in plain language, as that term is defined in section

1 1311(e) of the federal Act, as amended by section 10104 of the
2 federal Act, and applicable state law.

3 4. The marketplace shall permit individuals to learn,
4 in a timely manner upon the request of an individual, the
5 amount of cost-sharing, including deductibles, copayments,
6 and coinsurance, under the individual's health benefit plan
7 or coverage for which the individual would be responsible
8 for paying with respect to the furnishing of a specific item
9 or service by a participating health care provider. At a
10 minimum, this information shall be made available to the
11 individual through an internet site and through other means for
12 individuals without access to the internet.

13 5. The marketplace shall not exempt any health carrier
14 seeking certification of a health benefit plan, regardless of
15 the type or size of the health carrier, from applicable state
16 licensure or solvency requirements and shall apply the criteria
17 of this section in a manner that assures a level playing
18 field between or among health carriers participating in the
19 marketplace.

20 6. a. The provisions of this chapter that are applicable
21 to qualified health benefit plans shall also apply to the
22 extent relevant to qualified dental plans except as modified in
23 accordance with the provisions of paragraphs "b", "c", and "d",
24 or by rules adopted by the marketplace.

25 b. A health carrier to offer dental coverage shall be
26 licensed, but is not required to be licensed to offer other
27 health benefits.

28 c. A qualified dental plan shall be limited to dental and
29 oral health benefits, without substantially duplicating the
30 benefits typically offered by health benefit plans without
31 dental coverage and shall include, at a minimum, the essential
32 pediatric dental benefits prescribed by the secretary pursuant
33 to section 1302(b)(1)(J) of the federal Act, and such other
34 dental benefits as the marketplace or the secretary may specify
35 by rule or regulation.

1 *d.* A comprehensive plan may be offered through the
 2 marketplace in which dental benefits are included either as
 3 part of a qualified health benefit plan, or by a qualified
 4 dental plan offered in conjunction with a qualified health
 5 benefit plan, provided that the medical and dental benefits
 6 offered by the comprehensive plan are priced separately and are
 7 offered for purchase separately at the same price.

8 Sec. 11. NEW SECTION. 514M.11 Funding — publication of
 9 costs.

10 1. The marketplace may charge assessments or user fees to
 11 health carriers that offer health benefit plans through the
 12 marketplace or may otherwise generate the funding necessary to
 13 support the operation of the marketplace, as provided pursuant
 14 to the plan of operation of the marketplace.

15 2. The marketplace shall publish the average costs of
 16 licensing, regulatory fees, and any other payments required
 17 by the marketplace, and the administrative costs of the
 18 marketplace, on an internet site for the purpose of educating
 19 consumers about the costs of operating the marketplace. The
 20 information provided shall include information on moneys lost
 21 due to waste, fraud, and abuse of the health care system.

22 3. State funding shall not be appropriated or allocated
 23 for the operation or administration of the marketplace. Any
 24 assessments or user fees charged pursuant to this section
 25 shall provide for the sharing of losses and expenses of the
 26 marketplace on an equitable and proportionate basis among
 27 health carriers in this state as provided in the plan of
 28 operation of the marketplace.

29 Sec. 12. NEW SECTION. 514M.12 Rules.

30 In consultation with and subject to the approval of the
 31 board, the commissioner shall adopt rules pursuant to chapter
 32 17A to effectuate and administer the provisions of this
 33 chapter. Rules adopted under this section shall not conflict
 34 with or prevent the application of regulations promulgated by
 35 the secretary under the federal Act.

1 Sec. 13. NEW SECTION. **514M.13 Advisory council.**

2 1. The board shall establish an advisory council consisting
3 of various stakeholders including representatives from
4 the insurance industry, insurance producer organizations,
5 consumer advocacy groups, labor unions, employers, health care
6 providers, farmers, and other interested parties. The advisory
7 council shall meet when requested by the board.

8 2. The advisory council shall offer input to the board
9 regarding rules proposed by the commissioner, the plan of
10 operation for the marketplace, and any other topics relevant
11 to the marketplace.

12 3. The board may alter the composition of the advisory
13 council at any time to reflect changes in the interests of the
14 various stakeholders.

15 Sec. 14. NEW SECTION. **514M.14 Annual report.**

16 1. The marketplace shall submit an annual report to the
17 commissioner, governor, general assembly, and the auditor of
18 state by January 15. The report shall include an accurate
19 accounting of all the activities of the marketplace and of all
20 its receipts and expenditures during the prior fiscal year.

21 2. The report shall describe how the operations and
22 activities of the marketplace serve the interests of the state
23 and further the purposes set forth in this chapter.

24 Sec. 15. NEW SECTION. **514M.15 Relation to other laws.**

25 This chapter, and action taken by the marketplace pursuant
26 to this chapter, shall not be construed to preempt or supersede
27 the authority of the commissioner to regulate the business
28 of insurance in this state. Except as expressly provided to
29 the contrary in this chapter, all health carriers offering
30 qualified health benefit plans in this state shall comply fully
31 with all applicable health insurance laws of this state and
32 rules adopted and orders issued by the commissioner.

33 Sec. 16. NEW SECTION. **514M.16 Transition provisions.**

34 1. *a.* Beginning on or before March 1, 2014, upon their
35 appointment, the board of directors of the marketplace

1 shall meet, and in consultation with the commissioner, shall
 2 begin plans to implement the transition of the functions and
 3 administration of the federally facilitated exchanges or state
 4 partnership exchanges in operation in the state as of January
 5 1, 2014, pursuant to the federal Act, to the marketplace
 6 established pursuant to this chapter, in accordance with the
 7 federal Act and standards developed by the secretary, and
 8 applicable state law.

9 **b.** The marketplace established pursuant to this chapter
 10 shall be operational and shall offer enrollment in qualified
 11 health benefit plans to qualified individuals and qualified
 12 employers in this state on or before October 1, 2014. The
 13 qualified health benefit plans that are offered through the
 14 marketplace shall be effective on January 1, 2015.

15 2. The commissioner shall transfer the functions and
 16 administration of the Iowa insurance information exchange
 17 established in section 505.32 to the marketplace established
 18 pursuant to this chapter on or before January 1, 2015.

19 DIVISION II

20 CORRESPONDING PROVISION

21 Sec. 17. Section 505.32, Code 2013, is amended by adding the
 22 following new subsection:

23 NEW SUBSECTION. 6. This section is repealed on July 1,
 24 2015.

25 DIVISION III

26 EFFECTIVE DATE

27 Sec. 18. EFFECTIVE DATE. This Act takes effect January 1,
 28 2014.

29 EXPLANATION

30 This bill provides for the establishment of the Iowa health
 31 benefit marketplace.

32 The bill creates new Code chapter 514M, which provides for
 33 the establishment of a health benefit marketplace to facilitate
 34 the sale and purchase of qualified health benefit plans in
 35 this state by qualified individuals in the individual market

1 and by qualified small employers in the small group market.
2 The intent of establishing such a marketplace is to reduce
3 the number of uninsured individuals in this state, provide a
4 transparent marketplace and consumer education, and assist
5 individuals with access to relevant federal and state programs,
6 premium assistance tax credits, and cost-sharing reductions.

7 For purposes of the bill, a qualified employer that can
8 participate in the small business health options program
9 component of the marketplace is an employer that employs an
10 average of at least one and not more than 50 employees during
11 the preceding calendar year and elects to make its full-time
12 employees, and at the employer's option, some or all of its
13 part-time employees, eligible for one or more qualified health
14 benefit plans offered through the small business health options
15 program component of the marketplace. A qualified employer
16 must either have its principal place of business in this state
17 and elect to provide health coverage through the marketplace to
18 all of its eligible employees wherever employed, or elect to
19 provide coverage through the marketplace to all of its eligible
20 employees who are principally employed in this state.

21 The Iowa health benefit marketplace is established as a
22 nonprofit corporation. The marketplace shall be operated on
23 a statewide basis pursuant to a plan of operation established
24 and approved by its board of directors in consultation
25 with the commissioner of insurance. The marketplace shall
26 include separate components which facilitate the purchase of
27 qualified health benefit plans by eligible individuals and
28 small employers as described in new Code chapter 514M and the
29 federal Patient Protection and Affordable Care Act, as amended.
30 The marketplace may employ staff to carry out its duties but
31 no employees of the marketplace may offer services for which
32 a license as an insurance producer is required pursuant to
33 Code chapter 522B. The marketplace is also authorized to
34 contract with an eligible entity to fulfill any of its duties
35 or responsibilities as described in new Code chapter 514M.

1 The board of directors of the marketplace is comprised of
2 seven voting members appointed by the governor for three-year
3 staggered terms with two representing the interests of small
4 business; three representing the interests of consumers;
5 one who is a licensed insurance producer; and one who is a
6 health care provider. The voting members must be appointed
7 on or before March 1, 2014. There are also five ex officio,
8 nonvoting members of the board including four members of the
9 general assembly with one each appointed by the speaker and the
10 minority leader of the house of representatives, and by the
11 majority and minority leaders of the senate, and including the
12 secretary of the board.

13 The voting members of the board are required to appoint an
14 executive director, subject to confirmation by the senate, to
15 supervise the administrative affairs and general management
16 and operations of the marketplace. The board may appoint
17 other officers as the board deems necessary. The board is
18 also required to appoint a secretary of the board who keeps
19 a record of the board proceedings, is the custodian of all
20 books, documents, and papers filed with the board, including
21 information filed in an electronic format, and of the minute
22 book or journal of the board.

23 The marketplace has all the general powers of a nonprofit
24 corporation that are necessary and convenient to carry out its
25 purposes and duties and to exercise its specific powers as
26 provided in new Code chapter 514M.

27 The marketplace is required to make qualified health
28 benefit plans that are effective on or before January 1, 2015,
29 available to qualified individuals and qualified employers in
30 the state. The specific duties and powers of the marketplace
31 are set forth in new Code chapter 514M.

32 The marketplace is authorized to select entities licensed
33 and qualified to act as navigators in accordance with
34 the requirements of state and federal law for the purpose
35 of conducting public education activities, distributing

1 fair and impartial information concerning enrollment in
2 qualified health benefit plans, facilitating such enrollment,
3 providing referrals to the appropriate federal or state
4 entity for grievances, complaints, or questions regarding an
5 enrollee's health benefit plan, and providing culturally and
6 linguistically appropriate information to persons served by
7 the marketplace. An entity licensed as a navigator under Code
8 chapter 522D shall not engage in any activities that require
9 licensure as an insurance producer unless the entity is also
10 licensed as an insurance producer under Code chapter 522B. The
11 marketplace is authorized to certify a health benefit plan as
12 a qualified health benefit plan if the plan meets specified
13 criteria.

14 The marketplace may charge assessments or user fees to
15 health carriers that offer health benefit plans through the
16 marketplace or otherwise generate the funding necessary to
17 support the operation of the marketplace as provided in the
18 marketplace's plan of operation. The marketplace is required
19 to publish the average costs of licensing, regulatory fees,
20 and any other payments required by the marketplace, as well
21 as the administrative costs of the marketplace on an internet
22 site for the purpose of educating consumers about the costs
23 of operating the marketplace. No state funding can be
24 appropriated or allocated for the operation or administration
25 of the marketplace. Any assessments or user fees charged must
26 provide for sharing the losses and expenses of the marketplace
27 on an equitable and proportionate basis among health carriers
28 in the state.

29 In consultation with and subject to the approval of the
30 board, the commissioner of insurance is required to adopt rules
31 pursuant to Code chapter 17A to effectuate and administer the
32 provisions of new Code chapter 514M. The board is required
33 to establish an advisory council consisting of various
34 stakeholders including representatives from the insurance
35 industry, insurance producer organizations, consumer advocacy

1 groups, labor unions, employers, health care providers,
2 farmers, and other interested parties. The council shall
3 offer input to the board regarding rules proposed by the
4 commissioner, the plan of operation for the marketplace, and
5 any other relevant topics.

6 The marketplace is required to submit an annual report to the
7 commissioner, governor, general assembly, and the auditor of
8 state by January 15, which includes an accurate accounting of
9 all the activities of the marketplace and of all its receipts
10 and expenditures during the prior fiscal year. The report
11 shall also describe how the operations and activities of the
12 marketplace serve the interests of the state and further the
13 purposes of new Code chapter 514M.

14 The enactment of the Code chapter and actions taken by
15 the marketplace are not to be construed as preempting or
16 superseding the authority of the commissioner to regulate
17 insurance in this state.

18 The new Code chapter contains transition provisions that
19 require the new marketplace board to be appointed and meet
20 on or before March 1, 2014, and in consultation with the
21 commissioner of insurance, begin plans to implement the
22 transition of the functions and administration of the federally
23 facilitated exchanges or state partnership exchanges in
24 operation in the state as of January 1, 2014, pursuant to the
25 federal Act, to the marketplace established pursuant to new
26 Code chapter 514M.

27 The marketplace must be operational and offer enrollment in
28 qualified health benefit plans to qualified individuals and
29 qualified employers in this state on or before October 1, 2014.
30 The qualified health benefit plans that are offered through the
31 marketplace must be effective on January 1, 2015.

32 The commissioner of insurance is also directed to transfer
33 the functions and administration of the Iowa insurance
34 information exchange established in Code section 505.32 to the
35 marketplace on or before January 1, 2015, and Code section

S.F. 375

1 505.32 is repealed on that date.

2 The bill is effective January 1, 2014.